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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 ANIBAL RODRIGUEZ, et al.,
11 Plaintiffs,
12 v.
13 GOOGLE LLC,
14 Defendant.

Case No.: 20-cv-04688-RS

**DECLARATION OF CAMERON R.
AZARI, ESQ. REGARDING PROPOSED
CLASS NOTICE PLAN AND NOTICES**

15 I, Cameron R. Azari, Esq., declare as follows:

16 1. My name is Cameron R. Azari, Esq. I understand that this declaration is being
17 submitted in connection with Plaintiffs' motion to direct notice to members of the certified classes. I
18 have personal knowledge of the matters set forth herein, and I believe them to be true and correct.

19 **BACKGROUND & RELEVANT EXPERIENCE**

20 2. I am a nationally recognized expert in the field of legal notice, and I have served as an
21 expert in hundreds of federal and state cases involving class action notice plans.

22 3. I am a Senior Vice President of Epiq Class Action and Claims Solutions, Inc.
23 ("Epiq") and the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in
24 designing, developing, analyzing, and implementing large-scale, un-biased, legal notification
25 plans. Hilsoft Notifications is a business unit of Epiq. References to Epiq in this declaration
26 include Hilsoft Notifications.

27 4. Epiq is an industry leader in class action administration, having implemented more
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**DECLARATION OF CAMERON R. AZARI, ESQ., REGARDING PROPOSED CLASS NOTICE
PLAN AND NOTICES**

1 than a thousand successful class action notice and settlement administration matters. Epiq has been
2 involved with some of the most complex and significant notice programs in recent history, examples
3 of which are discussed below. My team and I have experience with legal noticing in more than 575
4 cases, including more than 70 multidistrict litigation settlements, and have prepared notices that have
5 appeared in 53 languages and been distributed in almost every country, territory, and dependency in
6 the world. Courts have recognized and approved numerous notice plans developed by Epiq, and
7 those decisions have invariably withstood appellate review.

8 5. I have served as a notice expert and have been recognized and appointed by courts to
9 design and provide notice in many large and significant cases, including:

10 a) *In Re: Zoom Video Communications, Inc. Privacy Litigation*, 3:20-cv-02155
11 (N.D. Cal.), involved an extensive notice plan for a \$85 million privacy settlement involving Zoom,
12 the most popular videoconferencing platform. Notice was sent to more than 158 million class
13 members by email or mail and millions of reminder notices were sent to stimulate claim filings. The
14 individual notice efforts reached approximately 91% of the class and were enhanced by
15 supplemental media notice, which included regional newspaper notice, nationally distributed digital
16 and social media notice (delivering more than 280 million impressions), sponsored search, an
17 informational release, and a settlement website.

18 b) *In re Takata Airbag Products Liability Litigation*, MDL No. 2599, 1:15-md-
19 02599 (S.D. Fla.), involved \$1.91 billion in settlements with BMW, Mazda, Subaru, Toyota, Honda,
20 Nissan, Ford, and Volkswagen regarding Takata airbags. The notice plans for those settlements
21 included individual mailed notice to more than 61.8 million potential class members and extensive
22 nationwide media via consumer publications, U.S. Territory newspapers, radio, internet banners,
23 mobile banners, and behaviorally targeted digital media. Combined, the notice plans reached more
24 than 95% of adults aged 18+ in the U.S. who owned or leased a subject vehicle, with a frequency of
25 4.0 times each.

26 c) *In Re: Capital One Consumer Data Security Breach Litigation*, MDL No.
27 2915, 1:19-md-02915 (E.D. Va.), involved an extensive notice program for a \$190 million data
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1 breach settlement. Notice was sent to more than 93.6 million settlement class members by email or mail.
2 The individual notice efforts reached approximately 96% of the identified settlement class members and
3 were enhanced by a supplemental media plan that included banner notices and social media notices
4 (delivering more than 123.4 million impressions), sponsored search, and a settlement website.

5 d) *In re: Disposable Contact Lens Antitrust Litigation*, 3:15-md-02626 (M.D. Fla.),
6 involved several notice programs to notify retail purchasers of disposable contact lenses regarding four
7 settlements with different settling defendants, totaling \$88 million. For each notice program, more than
8 1.98 million email or postcard notices were sent to potential class members, and a comprehensive media
9 plan was implemented, with a well-read nationwide consumer publication, internet banner notices
10 (delivering more than 312.9 million – 461.4 million impressions per campaign), sponsored search
11 listings, and a case website.

12 e) *In re: fairlife Milk Products Marketing and Sales Practices Litigation*, 1:19-cv-
13 03924 (N.D. Ill.), involved a \$21 million settlement with The Coca-Cola Company, fairlife, LLC, and
14 other defendants regarding allegations of false labeling and marketing of fairlife milk products. A
15 comprehensive media-based notice plan was designed and implemented, which included a consumer
16 print publication notice, targeted banner notices, and social media (delivering more than 620.1 million
17 impressions in English and Spanish nationwide). Combined with individual notice to a small
18 percentage of the class, the notice plan reached approximately 80.2% of the class. The reach was
19 further enhanced by sponsored search, an informational release, and a website.

20 f) *In re Morgan Stanley Data Security Litigation*, 1:20-cv-05914 (S.D.N.Y.),
21 involved a \$60 million settlement for Morgan Stanley Smith Barney’s account holders in response to
22 “Data Security Incidents.” More than 13.8 million emailed or mailed notices were delivered, reaching
23 approximately 90% of the identified potential settlement class members. The individual notice efforts
24 were supplemented with nationwide newspaper notice and a settlement website.

25 g) *In re: Payment Card Interchange Fee and Merchant Discount Antitrust*
26 *Litigation*, MDL No. 1720 (E.D.N.Y.), involved a \$5.5 billion settlement reached by Visa and
27 MasterCard. An intensive notice program included more than 19.8 million direct mail notices sent
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to potential class members, together with insertions in over 1,500 newspapers, consumer magazines, national business publications, trade and specialty publications, with notices in multiple languages, and an extensive online notice campaign featuring banner notices that generated more than 770 million adult impressions. Sponsored search listings and a settlement website in eight languages expanded the notice program. For the subsequent settlement reached by Visa and MasterCard, an extensive notice program was implemented, which included over 16.3 million direct mail notices to class members together with more than 354 print publication insertions and banner notices, which generated more than 689 million adult impressions. The Second Circuit recently affirmed the settlement approval. *See* No. 20-339 *et al.*, — F.4th —, 2023 WL 2506455 (2d Cir. Mar. 15, 2023).

h) *In re: Oil Spill by the Oil Rig “Deepwater Horizon” in the Gulf of Mexico, on April 20, 2010*, MDL No. 2179 (E.D. La.), involved landmark settlement notice programs to distinct “Economic and Property Damages” and “Medical Benefits” settlement classes for BP’s \$7.8 billion settlement of claims related to the Deepwater Horizon oil spill. Notice efforts included more than 7,900 television spots, 5,200 radio spots, and 5,400 print insertions and reached over 95% of Gulf Coast residents.

6. I have served as a legal notice expert in more than 25 cases in the United States District Court for the Northern District of California, including:

Case	Case Details
<i>In re: Zoom Video Communications, Inc. Privacy Litigation</i> , 5:20-cv-02155	\$85 million settlement; 158.2 million emails and 485,000 postcard notices sent, notice delivered to approximately 91% of the identified class, and digital notice provided.
<i>Ford et al. v. [24]7.AI, Inc.</i> (Best Buy Data Incident), 5:18-cv-02770	Data breach settlement that involved Best Buy; email or postcard notice delivered to approximately 99% of the 388,000 identified class members.
<i>Cochran et al. v. Accellion, Inc., et al.</i> , 5:21-cv-01887	\$5 million data breach settlement; 4.75 million email and 2 million postcard notices sent, and digital notice provided.
<i>Yamagata et al. v. Reckitt Benckiser LLC</i> , 3:17-cv-03529	\$50 million settlement for Move Free® supplements; 3.9 million email and 1.1 million postcard notices sent, notice delivered to approximately 98.5% of the identified class, with media notice that reached more than 80% of the entire class.

Case	Case Details
<i>Bally v. State Farm Insurance Company</i> , 3:18-cv-04954	Class Certification notice for universal life insurance policies; 86,216 mailed notice packages sent, and notice reached approximately 87.8% of the identified class.
<i>Pennington v. Tetra Tech, Inc. et al.</i> , 3:18-cv-05330	\$6.3 million settlement; individual notice efforts delivered to 100% of the identified class.
<i>In re: Optical Disk Drive Products Antitrust Litigation</i> , MDL 2143	\$205 million settlement; 12.7 million email notices delivered to approximately 89% of the identified class, combined with a media campaign, which reached approximately 75% of all adults 25+ who own a personal computer in the United States.
<i>Coffeng, et al. v. Volkswagen Group of America, Inc.</i> , 17-cv-01825	Settlement for engine water pumps; 1.9 million notice packages and 450,000 email notices sent, notice reached approximately 99% of the identified class, and digital notice provided.
<i>Maldonado et al. v. Apple Inc., et al.</i> , 3:16-cv-04067	\$95 million settlement for AppleCare; 3.7 million email notices and 78,000 postcard notices sent.
<i>Grace v. Apple, Inc.</i> , 17-cv-00551	\$18 million settlement for non-jailbroken Apple iPhone 4 or 4S; 3.2 million email and 609,000 postcard notices sent, and notice reached approximately 97.1% of the identified class.
<i>Richards, et al. v. Chime Financial, Inc.</i> , 4:19-cv-06864	Bank service disruptions settlement; 527,000 email notices delivered to approximately 93.8% of the identified class.
<i>Bautista v. Valero Marketing and Supply Co.</i> , 3:15-cv-05557	Debit card gasoline purchase settlement; print publication and digital notice provided.
<i>McKinney-Drobnis, et al. v. Massage Envy Franchising</i> , 3:16-cv-6450	\$10 million settlement regarding membership fees; 1.3 million email and 480,000 postcard notices sent, and notice reached approximately 96.9% of the identified class.
<i>In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation</i> (Audi CO ₂), MDL 2672	\$96.5 million settlement; email or mailed notice to 180,000 class members, and notice reached approximately 98% of the identified class.
<i>Bias v. Wells Fargo & Company, et al.</i> , 4:12-cv-00664	\$50 million settlement regarding mortgage broker price opinions; notice sent to 288,029 identified class members, and consumer magazine notice provided.
<i>Elder v. Hilton Worldwide Holdings, Inc.</i> , 16-cv-00278	Hotel stay promotion settlement; 8,700 email and 1,200 postcard notices delivered to approximately 99.6% of the identified class.
<i>In re: HP Printer Firmware Update Litigation</i> , 5:16-cv-05820	\$1.5 million settlement regarding printer firmware; 2.1 million email and 436,000 postcard notices sent to the identified class, and digital notice provided.
<i>In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Product</i>	\$327.5 million settlement; 855,000 email and 946,000 postcard notices sent to vehicle owners, and notice

Case	Case Details
<i>Liability Litigation</i> (Bosch Settlement), MDL 2672	reached approximately 97% of the identified class, and digital notice provided.
<i>In re: Lithium Ion Batteries Antitrust Litigation</i> , MDL 2420	\$113 million settlement; email notice sent to 10 million class members, notice delivered to 8.6 million identified class members, and digital notice provided.
<i>Naiman v. Total Merchant Services, Inc., et al.</i> , 4:17-cv-03806	\$7.5 million TCPA settlement; 51,000 postcard notices sent and notice reached approximately 83% of the identified class.
<i>Abante Rooter and Plumbing v. Pivotal Payments Inc., d/b/a/ Capital Processing Network and CPN</i> , 3:16-cv-05486	\$9 million TCPA settlement; 1.7 million postcard notices sent, and notice reached approximately 95.2% of the identified class.

7. Courts have credited our testimony as to which method of notification is appropriate for a given case, and I have provided testimony on numerous occasions on whether a certain method of notice represents the best notice practicable under the circumstances. Numerous court opinions and comments regarding my testimony, and the adequacy of our notice efforts, are included in our curriculum vitae, which is attached to this declaration as **Exhibit 1**.

8. In forming expert opinions, my staff and I draw from our in-depth class action case experience, as well as our educational and related work experiences. I am an active member of the Oregon State Bar, having received my Bachelor of Science from Willamette University and my Juris Doctor from Northwestern School of Law at Lewis and Clark College. I have served as the Director of Legal Notice for Epiq since 2008 and have overseen the detailed planning of virtually all of our court-approved notice programs during that time. Overall, I have more than 23 years of experience in the design and implementation of legal notification and claims administration programs, having been personally involved in hundreds of successful notice programs.

9. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business.

PROPOSED CLASS NOTICE PLAN

10. This declaration describes the proposed Class Notice Plan (“Notice Plan”) and notices (the “Notice” or “Notices”) for *Rodriguez et al. v. Google LLC.*, Case No. 20-cv-04688, in the United States District Court for the Northern District of California.

11. Epiq designed this Notice Plan based on our extensive prior experience and research into the notice issues particular to this case, and we have designed this Notice Plan as the best notice practicable under the circumstances.

DATA PRIVACY AND SECURITY

12. Epiq has procedures in place to protect the security of class data. As with all cases, Epiq will maintain extensive data security and privacy safeguards in its official capacity as the Notice Administrator for this action. A Services Agreement, which formally retains Epiq as the Notice Administrator, will govern Epiq's administration responsibilities for the action. Service changes or modification beyond the original contract scope will require formal contract addendum or modification. Epiq maintains adequate insurance in case of errors.

13. As a data processor, Epiq performs services on data provided, only as those outlined in a contract and/or associated statement(s) of work. Epiq does not utilize or perform other procedures on personal data provided or obtained as part of services to a client. I have also signed the Acknowledgment and Agreement to be Bound by the Protective Order in this case, which imposes similar limitations. Dkt. 70. Epiq will not use information provided regarding class members for any other purpose than the administration of this action. Specifically, the information will not be used, disseminated, or disclosed by or to any other person for any other purpose unless ordered by a Court or agreed upon by Counsel for the parties for this action.

14. The security and privacy of clients' and class members' information and data are paramount to Epiq. That is why Epiq has invested in a layered and robust set of trusted security personnel, controls, and technology to protect the data we handle. To promote a secure environment for client and class member data, industry leading firewalls and intrusion prevention systems protect and monitor Epiq's network perimeter with regular vulnerability scans and penetration tests. Epiq deploys best-in-class endpoint detection, response, and anti-virus solutions on our endpoints and servers. Strong authentication mechanisms and multi-factor authentication are required for access to Epiq's systems and the data we protect. In addition, Epiq has employed the use of behavior and signature-based analytics as well as monitoring tools across our entire network, which are managed

1 hours per day, 7 days per week, by a team of experienced professionals.

2 15. Epiq's world class data centers are defended by multi-layered, physical access
3 security, including formal ID and prior approval before access is granted, closed-circuit
4 television ("CCTV"), alarms, biometric devices, and security guards, 24 hours per day, 7 days per
5 week. Epiq manages minimum Tier 3+ data centers in 18 locations worldwide. Our centers have
6 robust environmental controls including uninterruptable power supply ("UPS"), fire detection and
7 suppression controls, flood protection, and cooling systems.

8 16. Beyond Epiq's technology, our people play a vital role in protecting class members'
9 and our clients' information. Epiq has a dedicated information security team comprised of highly
10 trained, experienced, and qualified security professionals. Our teams stay on top of important security
11 issues and retain important industry standard certifications, like SysAdmin, Audit, Network, and
12 Security ("SANS"), Certified Information Systems Security Professional ("CISSP"), and Certified
13 Information Systems Auditor ("CISA"). Epiq is continually improving security infrastructure and
14 processes based on an ever-changing digital landscape. Epiq also partners with best-in-class security
15 service providers. Our robust policies and processes cover all aspects of information security to form
16 part of an industry leading security and compliance program, which is regularly assessed by
17 independent third parties.

18 17. Epiq holds several industry certifications including: Trusted Information Security
19 Assessment Exchange ("TISAX"), Cyber Essentials, Privacy Shield, and ISO 27001. In addition to
20 retaining these certifications, we are aligned to Health Insurance Portability and Accountability Act
21 ("HIPAA"), National Institute of Standards and Technology ("NIST"), and Federal Information
22 Security Management Act ("FISMA") frameworks. Epiq follows local, national, and international
23 privacy regulations. To support our business and staff, Epiq has a dedicated team to facilitate and
24 monitor compliance with privacy policies. Epiq is also committed to a culture of security mindfulness.
25 All employees routinely undergo cybersecurity trainings to ensure that safeguarding information and
26 cybersecurity vigilance is a core practice in all aspects of the work our teams complete.

27 18. Upon completion of a project, Epiq continues to host all data until otherwise instructed

in writing by a customer to delete, archive or return such data. When a customer requests that Epiq delete or destroy all data, Epiq agrees to delete or destroy all such data; provided, however, that Epiq may retain data as required by applicable law, rule or regulation, and to the extent such copies are electronically stored in accordance with Epiq's record retention or back-up policies or procedures (including those regarding electronic communications) then in effect. Epiq keeps data in line with client retention requirements. If no retention period is specified, Epiq returns the data to the client or securely deletes it as appropriate.

NOTICE PLANNING METHODOLOGY

19. Federal Rules of Civil Procedure Rule 23 directs that notice must be “the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort” and “the notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.”¹

20. The Notice Plan will satisfy these requirements.

21. The Notice Plan includes: (1) direct notice via email to email accounts associated with users who had Web & App Activity (“WAA”) and/or supplemental Web & App Activity (“sWAA”) turned off or “paused” at any time between during the Class Period (defined as starting on July 1, 2016 and continuing through the date the notice program begins), which number in the hundreds of millions; (2) supplemental notice via a Media Plan that includes digital and social media, sponsored search listings, and may possibly be supplemented with streaming radio and streaming video notice; (3) creation of a public website that will include key dates and important documents related to this litigation; (4) a chatbot that will answer frequently asked questions from potential Class Members and provide additional information about this litigation; and (5) a toll-free telephone number through which potential Class Members can obtain additional information about this litigation.

22. The Notice Plan is designed to reach the greatest practicable number of Class Members. Given our experience with similar notice efforts, we anticipate the Notice Plan individual

¹ Fed. R. Civ. P. 23(c)(2)(B).

1 direct email notice will reach a high percentage of the Class (defined to include both of the Classes
2 certified by the Court). The reach of the individual notice efforts will be enhanced by a Media Plan
3 that includes digital and social media, sponsored search listings, a case website, and may be
4 supplemented with streaming radio and streaming video notice. Overall, we expect the Notice Plan
5 to reach well in excess of 80% of the Class.

6 23. In my experience, the Notice Plan is consistent with other court-approved notice plans,
7 is the best notice practicable under the circumstances of this case, and has been designed to satisfy
8 the requirements of due process, including its “desire to actually inform” requirement.²

9 24. Data sources and tools commonly employed by experts in the advertising industry were
10 used to analyze and develop the media component of the Notice Plan. These resources include MRI-
11 Simmons,³ which provides statistically significant readership and product usage data, Comscore,⁴

12 _____
13 ² *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 315 (1950) (“But when notice is a person’s
14 due, process which is a mere gesture is not due process. The means employed must be such as one
15 desirous of actually informing the absentee might reasonably adopt to accomplish it. The
16 reasonableness and hence the constitutional validity of any chosen method may be defended on the
17 ground that it is in itself reasonably certain to inform those affected . . .”); *see also In re Hyundai & Kia*
18 *Fuel Econ. Litig.*, 926 F.3d 539, 567 (9th Cir. 2019) (“To satisfy Rule 23(e)(1), settlement notices must
19 ‘present information about a proposed settlement neutrally, simply, and understandably.’ ‘Notice is
20 satisfactory if it generally describes the terms of the settlement in sufficient detail to alert those with
21 adverse viewpoints to investigate and to come forward and be heard.’”) (citations omitted); N.D. Cal.
22 Procedural Guidance for Class Action Settlements, Preliminary Approval (3) (articulating best practices
23 and procedures for class notice).

24 ³ MRI-Simmons is a leading source of publication readership and product usage data for the
25 communications industry. MRI-Simmons is a joint venture of GfK Mediamark Research &
26 Intelligence, LLC (“MRI”) and Simmons Market Research. MRI-Simmons offers comprehensive
27 demographic, lifestyle, product usage and exposure to all forms of advertising media collected from
28 a single sample. As the leading U.S. supplier of multimedia audience research, the company provides
information to magazines, televisions, radio, internet, and other media, leading national advertisers,
and over 450 advertising agencies—including 90 of the top 100 in the United States. MRI-
Simmons’s national syndicated data is widely used by companies as the basis for the majority of the
media and marketing plans that are written for advertised brands in the United States.

⁴ Comscore is a global internet information provider for planning, transacting, and evaluating media
across platforms. With a data footprint that combines digital, linear TV, OTT and theatrical
viewership intelligence with advanced audience insights, Comscore allows media buyers and sellers
to quantify their multiscreen behavior. A leader in measuring digital and TV audiences and
advertising at scale, Comscore is the industry’s emerging, third-party source for reliable and
comprehensive cross-platform measurement.

which provides similar usage data specific to online media, and Alliance for Audited Media (“AAM”)⁵ statements, which certify how many readers buy or obtain copies of publications. These tools, as applicable, along with demographic breakdowns indicating how many people use each media vehicle, as well as computer software that take the underlying data and factor out the duplication among audiences of various media vehicles, allow the net (unduplicated) reach of a particular media schedule to be determined. The combined results of this analysis are used to help determine the sufficiency and effectiveness of a notice plan.

25. ***Tools and data trusted by the communications industry and courts.*** Virtually all the nation’s largest advertising agency media departments utilize, scrutinize, and rely upon such independent, time-tested data and tools, including net reach and de-duplication analysis methodologies, to guide the billions of dollars of advertising placements seen today, providing assurance that these figures are not overstated. These analyses and similar planning tools have become standard analytical tools for evaluating legal notice programs and have been regularly accepted by courts.

26. In fact, advertising and media planning firms around the world have long relied on audience data and techniques: AAM data has been relied on since 1914;⁶ 90 to 100% of media directors use reach and frequency planning;⁷ all the leading advertising and communications

⁵ Established in 1914 as the Audit Bureau of Circulations (“ABC”) and rebranded as Alliance for Audited Media (“AAM”) in 2012, AAM is a non-profit cooperative formed by media, advertisers, and advertising agencies to audit the paid circulation statements of magazines and newspapers. AAM is the leading third-party auditing organization in the United States. It is the industry’s leading, neutral source for documentation on the actual distribution of newspapers, magazines, and other publications. Widely accepted throughout the industry, it certifies thousands of printed publications as well as emerging digital editions read via tablet subscriptions. Its publication audits are conducted in accordance with rules established by its Board of Directors. These rules govern not only how audits are conducted, but also how publishers report their circulation figures. AAM’s Board of Directors is comprised of representatives from the publishing and advertising communities.

⁶ <https://auditedmedia.com/about/who-we-are>.

⁷ See generally Peter B. Turk, *Effective Frequency Report: Its Use And Evaluation By Major Agency Media Department Executives*, 28 J. ADVERTISING RES. 56 (1988); Peggy J. Kreshel et al., *How Leading Advertising Agencies Perceive Effective Reach and Frequency*, 14 J. ADVERTISING 32 (1985).

textbooks cite the need to use reach and frequency planning.⁸ MRI-Simmons data is used by ninety of the top one hundred media firms. Comscore is used by major holding company agencies worldwide, including Dentsu Aegis Networking, GroupM, IPG and Publicis, in addition to independent agencies for TV and digital media buying and planning. At least 25,000 media professionals in 100 different countries use media planning software.⁹

27. To determine the Target Audience for class action notice planning purposes, most often a proxy audience that closely matches the definition of the class(es) is used. This is commonplace since the precise definition of the class(es) is not always available as an exact match in the advertising and media planning tools. The proxy audience is generally the closest/best match to the desired audience, here the defined Classes. Based on the analysis of the proxy audience within the advertising and media planning tools, the Target Audience is determined. This method of using a proxy audience is standard practice throughout the advertising industry, beyond class action noticing.¹⁰

28. **Demographics.** In selecting media to target to the Classes, the demographics of likely Class Members were analyzed. According to MRI-Simmons syndicated media research,¹¹ the

⁸ Textbook sources that have identified the need for reach and frequency for years include: Jack S. Sissors & Jim Surmanek, ADVERTISING MEDIA PLANNING, 57-72 (2d ed. 1982); Kent M. Lancaster & Helen E. Katz, STRATEGIC MEDIA PLANNING 120-156 (1989); Donald W. Jugenheimer & Peter B. Turk, ADVERTISING MEDIA 123-126 (1980); Jack Z. Sissors & Lincoln Bumba, ADVERTISING MEDIA PLANNING 93 122 (4th ed. 1993); Jim Surmanek, INTRODUCTION TO ADVERTISING MEDIA: RESEARCH, PLANNING, AND BUYING 106-187 (1993).

⁹ For example, Telmar, founded in 1968, provides strategic targeting and media planning solutions to advertisers, agencies, data suppliers and media sales houses. Over 25,000 media professionals in 100 countries use Telmar systems for media and marketing planning tools including reach and frequency planning functions.

¹⁰ “If the total population base (or number of class members) is unknown, it is accepted advertising and communication practice to use a *proxy-media* definition, which is based on accepted media research tools and methods that will allow the notice expert to establish that number. The percentage of the population reached by supporting media can then be established.” See Duke Law School, *Guidelines and Best Practices Implementing 2018 Amendments to Rule 23 Class Action Settlement Provisions*, at 56.

¹¹ MRI-Simmons 2022 Survey of the American Consumer®.

selected Target Audience of adults 18+ in the United States who use Google¹² have the following demographics:

- 48.1% are men / 51.9% are women;
- 55.0% are aged 18-49;
- 18.7% have a household income of \$100,000-\$149,999;
- 22.7% have a household income of \$150,000 or more;
- 70.3% own a Home;
- 16.7% are of Spanish, Hispanic, or Latino Descent;
- 53.1% are married;
- 89.4% use any social networking service;
- 68.2% use *Facebook*;
- 40.3% use *Instagram*;
- 57.4% use *YouTube*;
- 87.1% use any streaming video service (such as a *Netflix*, *Disney+*, *ESPN+*, *Hulu*, etc.);
- 45.0% listen to internet-only radio or other online music/audio service; and
- 100% are online.

NOTICE PLAN DETAIL

29. On January 3, 2024, the Court in the *Order Granting Motion to Certify Class and Denying Daubert Motion* certified the following Classes:

- **Class 1:** All individuals who, during the period beginning July 1, 2016 and continuing through the present (the “Class Period”), (a) had their “Web & App Activity” and/or “supplemental Web & App Activity” setting turned off and (b) whose activity on a non-Google-branded mobile app was still transmitted to Google, from (c) a mobile device running the Android operating system, because of the Firebase Software Development Kit (“SDK”) and/or Google Mobile Ads SDK.
- **Class 2:** All individuals who, during the Class Period (a) had their “Web & App Activity” and/or “supplemental Web & App Activity” setting turned off and (b) whose activity on a non-Google-branded mobile app was still transmitted to Google, from (c) a mobile device running a non-Android operating system, because of the Firebase SDK and/or Google Mobile Ads SDK.

¹² Since the Class Members consist of individuals who have a Google Account, a Target Audience of “those who use Google,” was selected since it encompasses adults that use Google search as well as other Google products or services.

Individual Notice

30. It is my understanding from Counsel that in order to create a Google Account, a user must either provide an email address or sign up for a Gmail address. I further understand from Counsel that Google has records of the email addresses associated with each of the active Google Accounts, including email addresses for Gmail or another domain (e.g., AOL, Yahoo, Microsoft, Outlook, and Hotmail).

31. It is my understanding from Counsel that Google also keeps records reflecting the WAA or sWAA setting associated with every active Google Account throughout the Class Period. As a result, the Notice Plan provides for sending an Email Notice to the email addresses associated with a Google Account for which the WAA or sWAA setting was turned off at any time during the Class Period.

Individual Notice - Direct Email

32. It is my understanding from Counsel that Google has hundreds of millions of email addresses associated with accounts that had WAA and/or sWAA turned off or “paused” at any time during the Class Period. It is also my understanding that Google will provide Epiq with data for these accounts. Epiq will use this data to send Email Notices directly to all of those accounts with a valid email address. Epiq is working with Counsel and will continue to work with Counsel (and Google employees, to the extent they are made available for this coordination) to facilitate and plan the details of this individual Email Notice program. The content of the Email Notice is attached to this declaration as **Exhibit 2**.

33. In conducting the Email Notice effort, Epiq will apply the following industry standard best practices: The Email Notice has been drafted in such a way that the subject line, the sender, and the body of the message should overcome SPAM filters and ensure readership to the fullest extent reasonably practicable. For instance, the Email Notice will use an embedded html text format. This format will provide easy to read text without graphics, tables, images, attachments, and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. Epiq will send the Email Notices from an IP address known to major

1 email providers as one not used to send bulk “SPAM” or “junk” email blasts. Each Email Notice will
2 be transmitted with a digital signature to the header and content of the Email Notice, which will allow
3 ISPs to programmatically authenticate that the Email Notices are from authorized mail servers. Each
4 Email Notice will also be transmitted with a unique message identifier.

5 34. If an Email Notice is returned as undeliverable, commonly referred to as a “bounce,”
6 the reason will be documented by Epiq. For any Email Notice for which a bounce code is received
7 indicating that the message was undeliverable, for reasons such as a full recipient mailbox, technical
8 auto-replies, etc., Epiq will make at least two additional attempts to deliver the Notice by email. The
9 Email Notice will include an embedded secure link to the case website. By clicking the link, Class
10 Members will be able to easily access information about the case.

11 *Media Plan Summary*

12 35. The Media Plan includes various forms of notice including a digital/internet notice
13 program (digital notice and social media), and internet sponsored search listings. The content of the
14 Digital Notices is attached to this declaration as **Exhibit 3**.

15 *Internet Digital Notice Campaign*

16 36. Internet advertising has become a standard component in legal notice programs. The
17 internet has proven to be an efficient and cost-effective method to target class members as part of
18 providing notice of a class action case. According to MRI-Simmons data, 100% of adults 18+ in the
19 United States who use Google are online and 89.4% of adults 18+ in the United States who use
20 Google use social media.¹³

21 37. The Notice Plan includes targeted digital advertising on selected advertising networks
22 and social media sites in various sizes and formats. The Digital Notices will be targeted to several
23 custom audiences based on the demographics of the Classes. Digital Notices will run on desktop,
24 mobile, and tablet devices. Digital Notices will also be targeted (remarketed) to people who click on
25 a Digital Notice. According to MRI-Simmons data, the Target Audience spends an average of 29.86
26

27 ¹³ MRI-Simmons 2022 Survey of the American Consumer®.

1 hours per week on the internet.¹⁴

2 38. Digital Notices will be placed as targeted digital advertising on selected advertising
3 networks such as *Basis Technologies* and the *Google Display Network*. These advertising networks
4 represent digital properties across all major content categories. Digital Notices will also be placed
5 on *Gmail.com*. Digital Notices will include targeting in both English and Spanish to selected target
6 audiences. All Digital Notices are designed to encourage engagement by Class Members—by linking
7 directly to the case website, allowing visitors easy access to relevant information and documents,
8 including the Long Form Notice (which is attached to this declaration as **Exhibit 4**). Consistent with
9 best practices, the Digital Notices will use language from the Long Form Notice headline, which will
10 allow users to identify themselves as potential Class Members.

11 ***Social Media Digital Internet Notice Campaign***

12 39. The Digital Notices will also be placed on the leading social media platforms in the
13 United States, including *Facebook*, *Instagram*, *X (Twitter)*, *TikTok*, *Reddit*, and *YouTube*. The social
14 media campaign will use an interest-based approach which focuses on the interests that users exhibit
15 while on the social media platforms, capitalizing on the Target Audience's propensity to engage in
16 social media. According to MRI-Simmons data, the Target Audience spends an average of 15.49
17 hours per week on social media.¹⁵

18 40. *Facebook* is the leading social networking site in the United States with 49.9% of all
19 social media usage with 175 million users,¹⁶ and *Instagram* has 140 million active users in the United
20 States.¹⁷ The Digital Notices on *Facebook* and *Instagram* will be in both English and Spanish.

21 41. *X (Twitter)* is a popular microblogging social media website that allows posts/tweets
22 containing images or videos. Users can like, comment, and share/retweet posts. *X* has more than 95
23

24
25 ¹⁴ MRI-Simmons 2022 Survey of the American Consumer®.

26 ¹⁵ MRI-Simmons 2022 Survey of the American Consumer®.

27 ¹⁶ Statista Digital 2023: Global Overview Report. Statista, founded in 2007, is a leading provider of
worldwide market and consumer data and is trusted by thousands of companies around the world for data.
Statista.com consolidates statistical data on over 80,000 topics from more than 22,500 sources and makes.

28 ¹⁷ Statista Digital 2023: Global Overview Report.

million users in the United States.¹⁸

42. *TikTok* is a short-form, video-sharing app that is immensely popular among younger users. Videos are in portrait orientation, and most are 30 seconds or less. As of January 2024, the app has more than 148 million users in the United States.¹⁹

43. *Reddit* is a widely used social forum website that contains more than one million communities known as subreddits. These communities cover specific topics making this an ideal platform to reach individuals with focused interests. *Reddit* has more than 57 million users in the United States.²⁰

44. Video ads (30-second Videos Notices) will be displayed on *YouTube*, or as video ads on the *Basis Technologies* display ad network providing an easy and accessible way for individuals to learn about the case and be directed to the case website for additional information. *YouTube* is the largest streaming video website in the United States with more than 240 million users.²¹

45. More details regarding the targeting, distribution, and specific ad sizes of the Digital Notices are included in the following table.

<i>Digital Plan</i>	<i>Target</i>	<i>Language</i>	<i>Ad Sizes</i>	<i>Planned Impressions</i>
<i>Basis Ad Network</i>	A18+	English & Spanish	728x90, 300x250, 300x600 & 970x250	5,000,000
<i>Google Display Network</i>	Affinity Audience: ²² Gmail	English & Spanish	728x90, 300x250, 300x600 & 970x250	12,500,000
<i>Google Display Network</i>	Intent Audience: ²³ Gmail	English & Spanish	728x90, 300x250, 300x600 & 970x250	12,500,000
<i>Google Display Network</i>	Affinity Audience: Google Chrome	English & Spanish	728x90, 300x250, 300x600 & 970x250	12,500,000
<i>Google Display Network</i>	Intent Audience: Google Chrome	English & Spanish	728x90, 300x250, 300x600 & 970x250	12,500,000

¹⁸ Statista Digital 2023: Global Overview Report.

¹⁹ Statista Digital 2024: Global Overview Report.

²⁰ Statista Digital 2023: Global Overview Report.

²¹ Statista Digital 2023: Global Overview Report.

²² “Custom Affinity Audience” allows us to target specific websites, keywords, and/or relevant content that our target may be viewing.

²³ “Custom Intent Audience” allows us to target people that are researching or purchasing certain items on the web.

<i>Digital Plan</i>	<i>Target</i>	<i>Language</i>	<i>Ad Sizes</i>	<i>Planned Impressions</i>
<i>Gmail.com Ads</i>	Adults 18+	English & Spanish	Gmail Promotional Ad	25,000,000
<i>Facebook</i>	Interest: Gmail	English & Spanish	Newsfeed & Right Hand Column	10,000,000
<i>Facebook</i>	Interest: Chrome Browser	English & Spanish	Newsfeed & Right Hand Column	12,500,000
<i>Facebook</i>	Interest: Android (OS)	English & Spanish	Newsfeed & Right Hand Column	7,500,000
<i>Instagram</i>	Interest: Gmail	English & Spanish	Newsfeed	6,500,000
<i>Instagram</i>	Interest: Chrome Browser	English & Spanish	Newsfeed	12,500,000
<i>Instagram</i>	Interest: Android (OS)	English & Spanish	Newsfeed	6,500,000
<i>Reddit</i>	/r/Gmail	English	Reddit Feed Ads	5,000,000
<i>Reddit</i>	/r/Chrome	English	Reddit Feed Ads	5,000,000
<i>Reddit</i>	/r/Android	English	Reddit Feed Ads	5,000,000
<i>X (Twitter)</i>	Interest: Gmail	English	Twitter Feed Ads	5,000,000
<i>X (Twitter)</i>	Interest: Chrome Browser	English	Twitter Feed Ads	5,000,000
<i>X (Twitter)</i>	Interest: Android (OS)	English	Twitter Feed Ads	5,000,000
<i>Yahoo Audience Network</i>	A18+	English & Spanish	728x90, 300x250, 300x600 & 970x250	5,000,000
TOTAL				170,500,000

46. Combined, approximately 170.5 million impressions will be generated by the Digital Notices nationwide. The internet advertising campaign will run for approximately six weeks. Clicking on the Digital Notices will link the readers to the case website, where they can easily obtain detailed information about the case.

Supplemental Notice Plan Options (Audio & Video Ads)

47. The deliverability of the individual email and digital notice efforts will be monitored, and if needed to reach Class Members, or if requested by Counsel for the parties, video and/or audio noticing may be added to supplement the notice efforts. The Audio and Video Notice Script is

attached to this declaration as **Exhibit 5**. If implemented, the following provides details regarding the possible supplemental notice efforts.

Streaming Radio Campaign

48. The radio campaign component of the Notice Plan includes radio spots strategically designed to bring awareness of the case to Class Members. The objective, syndicated data demonstrates that members of the Target Audience listen to radio an average of 15.5 hours per week.²⁴ Internet streaming radio spots will focus on stations of general interest and will be served on internet and satellite radio via the Sirius XM Radio (app), which is likely to be listened to by the Target Audience. Sirius XM Radio can be played on desktop, mobile, tablet, television, and in automobiles (Sirius XM Radio in automobiles uses satellite signal; however, users can stream the internet enabled content from their phone via Bluetooth). The radio campaign will consist of 30 second streaming radio spots that will air nationwide and will be designed to drive individuals to the case website to learn more about the case. The radio campaign is designed to deliver streaming radio spots nationwide and will run for six weeks.

Steaming Video Campaign

49. The streaming video campaign component of the Notice Plan utilizes Video Notice on *Hulu, Pluto, Fubo, Sling, Samsung TV, TikTok, and YouTube* to reach members of the Target Audience via smart TVs, desktops, and mobile devices. The objective syndicated data demonstrates that members of the Target Audience watch an average of 33 hours of TV per week.²⁵ The streaming video campaign will consist of 30 second spots that run nationwide and will be designed to drive individuals to the case website to learn more about the case. The streaming video campaign is designed to deliver 30 second video spots nationwide and will run for six weeks.

50. More details regarding the target audiences, distribution, specific ad types of the audio and video Notices, and the number of planned impressions or spots are included in the following table.

²⁴ MRI-Simmons 2022 Survey of the American Consumer®.

²⁵ MRI-Simmons 2022 Survey of the American Consumer®.

<i>Digital Plan</i>	<i>Target</i>	<i>Language</i>	<i>Ad Types</i>	<i>Planned Impressions or Spots</i>
<i>TikTok</i>	Interest: Gmail	English	30-second Video Ad (Portrait)	7,250,000
<i>TikTok</i>	Interest: Chrome Browser	English	30-second Video Ad (Portrait)	10,000,000
<i>TikTok</i>	Interest: Android (OS)	English	30-second Video Ad (Portrait)	7,250,000
<i>YouTube</i>	Affinity Audience: Gmail	English	30-second Skippable Video Ad	10,000,000
<i>YouTube</i>	Intent Audience: Gmail	English	30-second Skippable Video Ad	10,000,000
<i>YouTube</i>	Affinity Audience: Google Chrome	English	30-second Skippable Video Ad	12,500,000
<i>YouTube</i>	Intent Audience: Google Chrome	English	30-second Skippable Video Ad	12,500,000
TOTAL				69,500,000
<i>SiriusXM (app)</i>	Adults 18+ (music, news, & sports channels)	English	30-second Audio Ads	850,000 spots
<i>Streaming TV: Hulu, Pluto, Fubo, Sling, Samsung TV</i>	Adults 18+ (entertainment, news, & sports channels)	English	30-second Video Ads	550,000 spots
TOTAL				1,400,000

Sponsored Search Listings

51. To facilitate locating the case website, sponsored search listings will be acquired on the three most highly-visited internet search engines: *Google*, *Yahoo!*, and *Bing*. When visitors to these search engines search for selected keyword combinations related to the case, the sponsored search listing advertisement created for this case will be displayed. Generally, the sponsored search listing advertisement will appear at the top of the visitor's website page prior to the search results or in the upper right-hand column of the web-browser screen. The sponsored search listings will be displayed nationwide. All sponsored search listings will link directly to the case website.

Case Website

52. As part of the Notice Plan, a dedicated website for the case with an easy to remember domain name will be created and maintained. The case website will contain relevant documents and

information including: (i) details regarding the ability to opt-out and the deadline to do so; (ii) the dates and locations of relevant Court proceedings; (iii) the toll-free telephone number for the case; (iv) the Class Notice (Long Form Notice) in English and Spanish; and (v) relevant Court Orders and other filings. In addition, the case website will include answers to frequently asked questions (“FAQs”), contact information for the administrator, and instructions regarding how to obtain other case-related information. The case website address will be prominently displayed in all notice documents.

53. The case website will also include chatbot functionality to allow Class Members to easily obtain additional information by submitting questions and receiving approved responses based on the content in the Notices and FAQs.

Toll-free Telephone Number and Postal Mailing Address

54. A toll-free telephone number will be established to allow Class Members to call and obtain additional information in English or Spanish. Callers will be able to hear an introductory message and will have the option to learn more about the case in the form of recorded answers to FAQs. The content of these FAQs & Answers is attached to this declaration as **Exhibit 6**. Callers will also have an option to request a Long Form Notice by mail. The automated telephone system will be available 24 hours per day, 7 days per week. The toll-free telephone number will be prominently displayed in all notice documents.

55. A postal mailing address will also be provided, allowing Class Members the opportunity to request additional information or ask questions.

PLAIN LANGUAGE NOTICE DESIGN

56. The Notices are designed to be “noticed,” reviewed, and—by presenting the information in plain language²⁶—to be understood by Class Members. The design of the Notices follows the principles embodied in the Federal Judicial Center’s (“FJC”) illustrative “model” notices

²⁶ Rule 23(c)(2) of the Federal Rules of Civil Procedure requires class action notices to be written in “plain, easily understood language.”

1 posted at www.fjc.gov. Many courts, and the FJC itself, have approved notices that we have written
2 and designed in a similar fashion. The Notices contain substantial, albeit easy-to-read, summaries of
3 all key information about the action and the rights of Class Members including the ability to submit
4 a request to opt-out, and the deadline to do so. Consistent with our normal practice, all notice
5 documents will undergo a final edit prior to actual mailing and dissemination for grammatical errors
6 and accuracy.

7 CONCLUSION

8 57. In class action notice planning, execution, and analysis, we are guided by due process
9 considerations under the United States Constitution, by federal and/or state statutes, court rules, case
10 law, and the recognized notice standards under the Federal Rules of Civil Procedure Rule 23. This
11 framework directs that a notice plan be optimized to reach the class, and to provide class members
12 with easy access to the details of how the class action may impact their rights. All these requirements
13 will be met in this case with the Notice Plan.

14 58. The comprehensive Notice Plan includes individual direct notice via email, which is
15 anticipated to reach a high percentage of the Class Members. The reach of the individual notice
16 efforts will be enhanced by a Media Plan that includes, digital and social media, sponsored search
17 listings, a case website, and may be supplemented with streaming radio and streaming video notice.
18 Overall, we expect the Notice Plan to reach well in excess of 80% of the Class.

19 59. In class action notice planning, execution, and analysis, we are guided by due process
20 considerations under the United States Constitution, and by case law pertaining to the recognized
21 notice standards under Federal Rule of Civil Procedure Rule 23. This framework directs that the
22 notice plan be optimized to reach the class, and to provide class members with easy access to the details
23 of how the class action may impact their rights. All of these requirements will be met in this case.

24 60. The Federal Judicial Center's ("FJC's") *Judges' Class Action Notice and Claims Process*
25 *Checklist and Plain Language Guide*, which is relied upon for federal cases, states that, "the lynchpin
26 in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts
27

1 together will reach a high percentage of the class. It is reasonable to reach between 70–95%.”²⁷ Here,
 2 we have developed a Notice Plan that will readily achieve a reach well within that standard.

3 61. The Notice Plan follows the guidance for how to satisfy due process obligations that
 4 a notice expert gleans from the United States Supreme Court’s seminal decisions, which are: a) to
 5 endeavor to actually inform the class, and b) to demonstrate that notice is reasonably calculated to do so.

6 a) “But when notice is a person’s due, process which is a mere gesture is not
 7 due process. The means employed must be such as one desirous of
 8 actually informing the absentee might reasonably adopt to accomplish it,”
Mullane v. Central Hanover Trust, 339 U.S. 306, 315 (1950).

9 b) “[N]otice must be reasonably calculated, under all the circumstances, to
 10 apprise interested parties of the pendency of the action and afford them
 11 an opportunity to present their objections,” *Eisen v. Carlisle & Jacquelin*,
 417 U.S. 156 (1974) citing *Mullane* at 314.

12 62. Based on my extensive experience of designing and implementing class action notice
 13 programs, it is my opinion that the Notice Plan will provide the best notice practicable under the
 14 circumstances of this case, conform to all aspects of Federal Rules of Civil Procedure Rule 23,
 15 comport with the guidance for effective notice articulated in the Manual for Complex Litigation 4th
 16 Ed. and FJC guidance, and meet the requirements of due process, including its “desire to actually
 17 inform” requirement.

18 63. The Notice Plan schedule will afford enough time to provide full and proper notice to
 19 Class Members before any opt-out deadline. Class Members will be provided with more than
 20 sufficient time to opt-out, with 60 days from the notice completion date until the opt-out deadline.²⁸

21 64. At the conclusion of the Notice Plan, I will provide a final report verifying the effective
 22 implementation of the Notice Plan.

24
 25 ²⁷ FED. JUDICIAL CTR, JUDGES’ CLASS ACTION NOTICE AND CLAIMS PROCESS CHECKLIST AND PLAIN
 26 LANGUAGE GUIDE 3 (2010), available at <https://www.fjc.gov/content/judges-class-action-notice-and-claims-process-checklist-and-plain-language-guide-0>.

27 ²⁸ Although this case has not reached a settlement at this time, the N.D. Cal. Procedural Guidance for
 28 Class Action Settlements, Preliminary Approval (9) regarding the timeline for class members to opt-
 out will be followed.

1 I declare under penalty of perjury that the foregoing is true and correct. Executed on March
2 7, 2024.

3 

4 _____
Cameron R. Azari, Esq.